

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

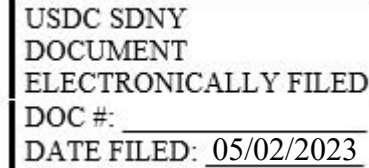
PRIYA HARRIRAM,

Plaintiff,

-against-

JOSEPH L. FERA, BRIAN WYNNE,
BRIDGET BARBERA, DAWN EWING-
MORGAN, CITY UNIVERSITY OF NEW
YORK, and LEHMAN COLLEGE,

Defendants.



21-CV-3696 (RA) (BCM)

ORDER OF SERVICE

BARBARA MOSES, United States Magistrate Judge:

For the reasons set forth below, the Court directs service of plaintiff's Third Amended Complaint (Am. Compl.) (Dkt. 90) on Brian Wynne, Bridget Barbera, and Dawn Ewing-Morgan.

BACKGROUND

Plaintiff, who is appearing *pro se*, filed this action two years ago, on April 26, 2021, alleging that defendant Joseph Luis Fera discriminated against her based on her race and national origin when she applied for an adjunct lecturer position with the Math Department at Lehman College. (Dkt. 2.) Plaintiff's request to proceed without prepayment of fees, that is, *in forma pauperis* (IFP), was granted on June 14, 2021. (Dkt. 6.)

The case was then assigned to the Hon. Ronnie Abrams, United States District Judge, who issued an order of service on June 20, 2021, noting that, although plaintiff asserted claims against Lehman College (Lehman), she did not name Lehman as a defendant. (Dkt. 8, at 1.) Judge Abrams therefore directed the Clerk of Court to add Lehman as a defendant and directed the U.S. Marshals Service to serve both Fera and Lehman. (*Id.* at 1-2.)

On March 8, 2022, Plaintiff amended her complaint to add the City University of New York (CUNY) as a defendant. (Dkt. 56.) That complaint, which Judge Abrams designated the

Second Amended Complaint (Dkt. 89, at 1 n.2), alleged claims of discrimination based on race and sex, retaliation, and hostile work environment. (Dkt. 56, at ECF pp. 4-5.) On March 9, 2022, Judge Abrams issued an Order of Service directing the U.S. Marshals Service to serve defendant CUNY. (Dkt. 57.) Thereafter, defendants Fera, Lehman, and CUNY filed a motion to dismiss (Dkts. 64), which Judge Abrams granted on March 27, 2023, dismissing the Second Amended Complaint and giving plaintiff an opportunity to amend, so long as she did so within 30 days. (Dkt. 89, at 19.)

On April 26, 2023, plaintiff filed her the Third Amended Complaint, once again naming defendants Fera, CUNY, and Lehman (despite the fact that Judge Abrams dismissed the claims against Lehman because it is not a suable entity (*see* Dkt. 89, at 1 n.1)), and adding defendants Brian Wynne, Bridget Barbera, and Dawn Ewing-Morgan. Plaintiff alleges claims of discrimination based on sex. (Dkt. 90, at 3.)

DISCUSSION

Because plaintiff has been granted permission to proceed IFP, she is entitled to rely on the Court and the U.S. Marshals Service to effect service. *Walker v. Schult*, 717 F.3d 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all process . . . in [IFP] cases."); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)). Rule 4(m) of the Federal Rules of Civil Procedure generally requires that summonses and the complaint be served within 90 days of the date the relevant complaint is filed. If the Third Amended Complaint is not served within that time, plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff's responsibility to request an extension of time for service); *see also Murray v. Pataki*, 378 F. App'x 50, 52 (2d Cir. 2010) ("As long as the [plaintiff

proceeding IFP] provides the information necessary to identify the defendant, the Marshals' failure to effect service automatically constitutes 'good cause' for an extension of time within the meaning of Rule 4(m).")

To allow plaintiff to effect service on defendants Brian Wynne, Bridget Barbera, and Dawn Ewing-Morgan through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form ("USM-285 form") for each of these defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these defendants.

Plaintiff must notify the Court in writing if her address changes. If plaintiff fails to do so, the Court may dismiss the action.

CONCLUSION

The Clerk of Court is respectfully directed to add Dawn Ewing-Morgan as a defendant.

The Clerk of Court is further instructed to issue summonses, complete the USM-285 forms with the addresses for Brian Wynne, Bridget Barbera, and Dawn Ewing-Morgan and deliver all documents necessary to effect service to the U.S. Marshals Service.

SO ORDERED.

Dated: May 2, 2023
New York, New York



BARBARA MOSES
United States Magistrate Judge